car, that there was no brakeman thereon, that the car was moved without notice or warning and that, while there was no fixed path, it was customary for the employes to cross this part of the yards on their way to and from work. *Held,* in the absence of a custom requiring such notice or warning, the evidence is insufficient to prove actionable negligence, there being nothing to show that the cars were not being moved in the usual and ordinary manner. *Hoffman* v. *Chicago and N. W. Ry. Co.* (Neb. 1912), 137 N. W. 878.

In coming to its decision the court dismisses the question of the custom of the employes to cross the track by the statement that they did not use any defined path. In the cases cited by the court, this question does not come up, the cases nearest in point being *Crowe* v. *N. Y. C. & H. R. Ry. Co.,* 23 N. Y. Supp. 1100, in which the employe injured was returning from repairing a switch, and *Plunkett* v. *Central of Ga. Ry. Co.,* 105 Ga. 203, 30 S. E. 728, in which the employe was a car sealer and was injured while discharging his duties. Neither of these cases show that it was customary for the employes to cross the tracks at the point where the injuries occurred. In other cases it has been held under facts similar to the principal case that the company owes the duty of warning the employe. *Cincinnati N. O. & T. P. Ry. Co.* v. *Mayfield, Adm'r.,* 145 Ky. 305; *Chicago I. & L. Ry. Co.* v. *Cunningham,* 33 Ind. App. 145. The courts in these cases say that where it is customary for the employes to cross the tracks, and where it is done with the knowledge and consent of the company, as it was in this case, the company should anticipate the presence of people on the track and should not move the cars without reasonable warning and reasonable lookout. Under the reasoning in these cases, the question of whether or not there was a defined path was not controlling and the court should have left the question to the jury to decide whether under all the facts the company was guilty of negligence.

MUNICIPAL CORPORATIONS—CONTRACT NOT TO ASSESS PARTICULAR PROPERTY-OWNERS FOR LOCAL IMPROVEMENTS.—On the widening and improvement of a street, certain abutters contracted to accept nominal sums as payment for land taken and damages for lowering of grade, and also to remove the earth necessary to grade; while the city in turn agreed that their property should be eliminated from any assessment for such improvement. The property was assessed nevertheless, and after payment of the assessment, the city was sued upon the contract. *Held* that such contract was ultra vires and void. *H. S. Turner Inv. Co.* v. *City of Seattle* (Wash. 1912), 126 Pac. 426.

Where a valid power exists, but is merely exercised in an invalid way, the defects in the mode of acting may be disregarded and the contract enforced or recovery by another method allowed; but where there is no valid power, the contract can in no case be enforced. 2 DILLON, MUN. CORP. (5th Ed.) § 791; *Criswell* v. *Director School District No. 24,* 34 Wash. 420, 75 Pac. 984; *Hitchcock* v. *Galveston,* 96 U. S. 341; *Moore* v. *New York,* 73 N. Y. 238; *South Covington District* v. *Kenton Water Co.,* 117 Ky. 489, 78 S. W. 420. A contract in which a municipality agrees, in return for conveyance of land, release of all claims for damages, etc., to hold certain property exempt from payment of future special assessments for local improvements is gen-

erally held ultra vires and void. *In Re Third, Fourth and Fifth Avenues,* 49 Wash. 109, 94 Pac. 1075, 95 Pac. 862; *Pittsburgh C. C. & St. L. Ry. Co.* v. *Oglesby,* 165 Ind. 542, 76 N. E. 165; *Vrana* v. *St. Louis,* 164 Mo. 146, 64 S. W. 180. In Michigan it is held that such agreements are invalid if the improvement is one affecting "a general public or state interest," *e. g.* opening of new street, but valid if "matter of municipal interest," as in the case of laying a sewer. *Leggett* v. *Detroit,* 137 Mich. 247, 100 N. W. 566; *Coit* v. *Grand Rapids,* 115 Mich. 493, 13 N. W. 811. Massachusetts, New York, Minnesota and other states by statute allow such agreements under certain circumstances; but the terms of the statutes must be strictly followed. *Whitcomb* v. *Boston,* 192 Mass. 211, 78 N. E. 407.

MUNICIPAL CORPORATIONS—ORDINANCE IN GENERAL TERMS ADAPTED TO AFFECT A PARTICULAR INDIVIDUAL.—Plaintiff bought a lot in a residential district to erect thereon a livery stable, obtained a building permit, and started preliminary building operations. To prevent the opening of this stable, an ordinance was passed requiring a permit from the council for the opening or conducting of a livery business, and making the location of the building with regard to residential neighborhoods and churches an important consideration in granting or refusing a permit. Under this ordinance, a permit was refused plaintiff. *Held* that the ordinance and refusal of permit were proper. *Douglas* v. *City Council of Greenville* (S. C. 1912), 75 S. E. 687.

While livery-stables are not per se nuisances, a city may under statutory authority confine them to certain, prescribed localities. 2 DILLON, MUN. CORP. (5th Ed.), § 692; *Chicago* v. *Stratton,* 162 Ill. 494. Special and unwarranted discrimination renders an ordinance invalid. 2 DILLON, MUN. CORP. (5th Ed.), § 593; *Monmouth* v. *Pobel,* 183 Ill. 634; *Board of Council* v. *Renfro,* 22 Ky. Law Rep. 806, 58 S. W. 795, 51 L. R. A. 897. But if the ordinance applies to all persons engaged in the same business, such regulation of that business is not discriminatory. *Fischer* v. *St. Louis,* 167 Mo. 654, 194 U. S. 361; *State* v. *Crescent Creamery Co.,* 83 Minn. 284, 86 N. W. 107, 54 L. R. A. 466; *Lieberman* v. *Van De Carr,* 199 U. S. 552. Nor are the motives of the members of the council or other like municipal body in adopting an ordinance a subject of judicial inquiry for the purpose of invalidating the ordinance; 2 DILLON, MUN. CORP. (5th Ed.), § 580; *People* v. *Chicago,* 154 Ill. App. 578; *Shepard* v. *Seattle,* 109 Pac. 1067; *Helena* v. *Miller,* 88 Ark. 263, 114 S. W. 237; *People* v. *Gardner,* 143 Mich. 104, 106 N. W. 541.

PARENT AND CHILD—NEGLIGENCE OF CHILD—LIABILITY OF PARENT.—Defendant purchased an automobile for use of himself and family, and his minor son was authorized to use it at any time. The son, while using the machine for a pleasure drive with his sister and a friend who was a guest of the family, negligently injured the plaintiff. In a suit to recover for the injury, it was *held* that the father was liable, on the ground that the relation of master and servant existed between the defendant and his son. *McNeal* v. *McKain* (Okl. 1912), 126 Pac. 742.

Cases similar to this have given rise to considerable discussion. The case of *Doran* v. *Thomsen,* 76 N. J. L. 754, 71 Atl. 296, 19 L. R. A. N. S. 335, is